

A.G. Contract No.: KR05-0575TRN
ECS File No.: JPA 05-028
Project No.: N/A
Section: SR 90
Project: Traffic Signals
TRACS No.: MAINTAGR
Budget Source Item No.: N/A

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF BENSON

THIS AGREEMENT is entered into this date September 7, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF BENSON, acting by and through its MAYOR and CITY COUNCIL (the "City").

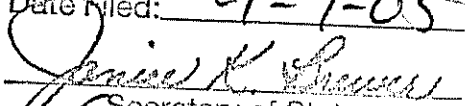
I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State and the City desire to participate in the design, construction and maintenance of Traffic Signal Systems located on State Route (SR) 90, at the intersections of Cooperative Way, Milepost (MP) 295.25, Whetstone Ranch Road, MP 292.77 and Ventana South Loop Road, MP 293.10, hereinafter referred to as the "Project". The parties agree that the City will design, construct and provide electrical energy to operate the signals; all at their own expense and, the State will maintain the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27710
Filed with the Secretary of State
Date Filed: 9-7-05

Secretary of State

By: 

II. SCOPE OF WORK

1. The State shall:

a. Review the design documents required for construction of the Project, and provide comments to the City as appropriate.

b. Require the City to apply and receive approval for an "Encroachment Permit" for construction of the Project.

c. Upon completion and acceptance of the Project, be responsible to maintain the Traffic Signals.

2. The City shall:

a. Prepare and provide design plans, specifications and other such documents and services required for construction bidding and construction of the Project, and submit same to the State for concurrence.

b. Advertise for bids and award one or more construction contract(s) for the Project. Administer contracts for the Project and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by Project delays attributable to the City.

c. Obtain an "Encroachment Permit" through the Safford District Permit Office, for the construction of the Project.

d. Conduct all construction work in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's Uniform Traffic Control Manual.

e. Upon completion, approval and acceptance of the Project and on behalf of the parties herein, provide electrical energy to operate the signal, at the City's expense.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement for the design and construction of the Traffic Signal.

2. The parties to this Agreement agree that the State of Arizona shall be indemnified and held harmless by the City for the vicarious liability of the State as a result of entering into this Agreement. Each party to this Agreement is responsible for its own negligence.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act

including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State and City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State and the City at the end of the period for which the funds are available. No liability shall accrue to the State and the City in the event this provision is exercised, and the State and City shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

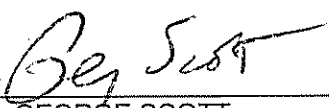
Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

City of Benson
Attn: Boyd Kraemer, City Manager
160 South Huachuca
Benson, AZ 85602
(520) 586-2245

10. Pursuant to Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF BENSON


By 
GEORGE SCOTT
Mayor

STATE OF ARIZONA

Department of Transportation

By 
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST:

By 
KAREN JOHNSON
Clerk

JPA 05-028

APPROVAL OF THE CITY OF BENSON

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF BENSON, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 17 day of August, 2005.



City Attorney

RESOLUTION NO. 25-2005

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BENSON AND THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION AND MAINTENANCE OF TRAFFIC SIGNAL SYSTEMS TO BE LOCATED ON STATE ROUTE 90.

WHEREAS, the Arizona Department of Transportation is empowered by Arizona Revised Statutes §28-401 to enter into Intergovernmental Agreements;

WHEREAS, the City is empowered by Arizona Revised Statutes §48-572 to enter into Intergovernmental Agreements regarding infrastructure; and,

WHEREAS, the City of Benson wishes to enter into an Intergovernmental Agreement with the Arizona Department of Transportation providing for the design, construction and maintenance of Traffic Signal Systems located on State Route (SR) 90, at the intersections of Cooperative Way, Milepost (MP) 295.25, Whetstone Ranch Road, MP 292.77 and Ventana South Loop Road, MP 293.10;


NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL that the Intergovernmental Agreement between the State of Arizona, acting through its Department of Transportation, and the City of Benson, providing for the design, construction and maintenance of Traffic Signal Systems located on State Route (SR) 90, at the intersections of Cooperative Way, Milepost (MP) 295.25, Whetstone Ranch Road, MP 292.77 and Ventana South Loop Road, MP 293.10, is hereby approved. Further, the Mayor of the City of Benson is hereby authorized to execute any and all documentation regarding said Intergovernmental Agreement.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA, this 15th day of August, 2005.



GEORGE SCOTT, Mayor

ATTEST:



KAREN JOHNSON, City Clerk

APPROVED AS TO FORM:



ANN P. ROBERTS, City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

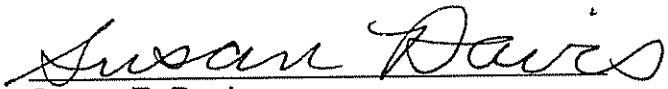
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR05-0575TRN (**JPA 05-028**), an Agreement between public agencies, i.e., *The State of Arizona* and *The City of Benson*, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: August 29, 2005

TERRY GODDARD
Attorney General


Susan E. Davis
Assistant Attorney General
Transportation Section

SED:mjf
Attachment
921557